

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Felicia Branesco

Plaintiff(s),

- against -

Scully & Scully, Inc
Defendant(s).

10 Civ. 5250 (PKC)

CIVIL CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

The

This Civil Case Management Plan (the "Plan") is submitted by the parties in accordance with Rule 26(f)(3), Fed. R. Civ. P.

*and Scheduling Order of September 23, 2010
modified as follows:*

1. All parties ~~(consent)~~ (do not consent) to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(e). [Circle one.] The parties are free to withhold consent without adverse substantive consequences. [If all parties consent, the remaining paragraphs need not be completed.]
2. This case (is) (is not) to be tried to a jury. [Circle one.]
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within ___ days from the date of this Order. [Absent exceptional circumstances, thirty (30) days.]
4. Initial disclosures, pursuant to Rules 26(a)(1), Fed. R. Civ. P., shall be completed not later than ___ days from the date of this Order. [Absent exceptional circumstances, fourteen (14) days.]
5. All fact discovery shall be completed no later than January 30, 2011. ~~A period not to exceed 120 days, unless the Court finds that the case presents unique complexities or other exceptional circumstances.~~ *Requests to Admit to be served by December 26, 2010.* 30
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. ~~The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5 above:~~
 - a. Initial requests for production of documents to be served by _____
 - b. Interrogatories to be served by _____

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- c. Depositions to be completed by _____
- d. Requests to Admit to be served no later than December 30, 2010.
7. a. All expert discovery shall be completed no later than N/A.
[Absent exceptional circumstances, a date forty-five (45) days from the date in paragraph 5, i.e. the completion of all fact discovery.]
- b. No later than thirty (30) days prior to the date in paragraph 5, i.e. the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements, except that motions in limine may be made without a pre-motion conference on the schedule set forth in paragraph 11. Pursuant to the authority of Rule 16(c)(2), Fed. R. Civ. P., any motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing within fourteen (14) days of the date in paragraph 5, i.e., the close of fact discovery.
9. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.
10. a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed upon the following:

- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: Settlement Conference and District Mediation
- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (~~e.g. within the next sixty days, after the deposition of plaintiff is completed (specify date)~~ after the close of fact discovery)
after the close of fact discovery
- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

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11. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine shall be filed after the close of discovery and before the Final Pretrial Submission Date and the premotion conference requirement is waived for any such motion. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.
12. Counsel for the parties have conferred and their present best estimate of the length of trial is: 3.
13. [Other items, including those in Rule 26(f)(3).]

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Rule 16(b), Fed. R. Civ. P.

14. [Other]

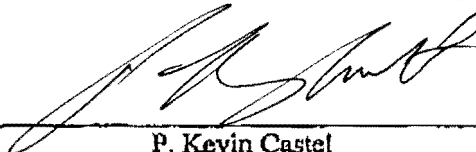
December 20, 2010

The Case Management Conference scheduled for
is vacated.

15. The next Case Management Conference is scheduled for Feb. 3, 2011 at 11:45 a.m.

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This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as noted in paragraph 6) shall be made in a written application in accordance with paragraph 1(C) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.



P. Kevin Castel
United States District Judge

Dated: New York, New York

12-8-10

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1. Hon. P. Kevin Castel	United States District Court Southern District of New York	212-805-7949	
2. Paul Keefe, Esq.	Community Service Society	212-260-6218	212-614-5339

FROM:	Alfred A. D'Agostino, Jr.	DATE:	December 2, 2010
DIRECT DIAL NO.:	(212) 909-2101	FILE NO.:	101-75727

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December 2, 2010

VIA FACSIMILE

Hon. P. Kevin Castel
Judge, United States District
Court for the Southern
District of New York
500 Pearl Street - Room 2260
New York, New York 10007-1312

Re: Branescu v. Scully & Scully, Inc.
Case No. 10 CV-5250
Our File No.: 101-75727

Dear Judge Castel:

We represent the defendant Scully & Scully, Inc in the above-captioned matter.

On September 23, 2010, we attended a Case Management Conference. Based upon the parties' submission, the Court ordered all fact discovery completed by December 17, 2010. While much discovery has been completed including plaintiff's deposition, the defendant is conducting an ongoing inspection of its computers in order to uncover and locate emails sought by plaintiff. This takes time and may include confidential information of consumers which counsel and I will address. In addition, we would ask the Court to consider the fact that the holidays are an important period for my client's operations and with due respect, we need the time.

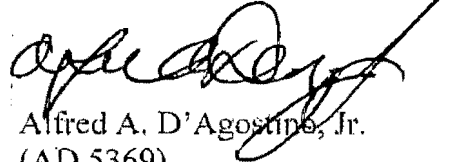
I have spoken with the attorney for plaintiff, Paul Keefe, and he has no opposition and joins with me on my application to extend the fact discovery deadline 45 days and adjourning the next Case Management Conference likewise. I enclose a proposed Revised Case Management Order per your Individual Rules. I left insertion of the next conference date for the Court.

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Hon. P. Kevin Castel
December 2, 2010
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No previous application for this relief has been made.

Respectfully submitted



Alfred A. D'Agostino, Jr.
(AD 5369)

AAD:emj
Enclosure
cc: Paul Keefe, Esq. (via facsimile transmission)